

McNAMARA, NEY, BEATTY, SLATTERY, BORGES & AMBACHER LLP
ATTORNEYS AT LAW
1211 NEWELL AVENUE, WALNUT CREEK, CA 94596
TELEPHONE: (925) 939-5330

JAMES V. FITZGERALD, III (State Bar No. 55632)
PETRA BRUGGISSER (State Bar No. 241173)
NOAH G. BLECHMAN (State Bar No. 197167)
McNAMARA, NEY, BEATTY, SLATTERY,
BORGES & AMBACHER LLP
1211 Newell Avenue
Walnut Creek, CA 94596
Telephone: (925) 939-5330
Facsimile: (925) 939-0203

Attorneys for Defendants
CITY OF SAN PABLO, OFFICER MARK GALIOS

Edi M. O. Faal, Esq. State Bar No.: 107477
Renée L. Campbell, Esq. State Bar No.: 104020
LAW OFFICES OF EDI M. O. FAAL
1055 W. 7th Street, Suite 2140
Los Angeles, California 90017
Telephone: (213) 534-0344
Facsimile: (213) 534-0347
e-Mail Address: reneecampbell.law@gmail.com

Attorney for Plaintiffs
RHONDA MINTER GUARDIAN AD LITEM FOR ISAIAH
MINTER; IMANI MINTER; JAYSHON HOPKINS; AHMIK
HOPKINS-MINTER

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RHONDA MINTER GUARDIAN AD
LITEM FOR ISAIAH MINTER; IMANI
MINTER; JAYSHON BROOKS; AHMIK
HOPKINS-MINTER ARI; ZION
HOPKINS-MINTER,

Plaintiff,

vs.

CITY OF SAN PABLO; POLICE
OFFICER MARK EDWARD GALIOS;
DOES 1 through X,

Defendant.

Case No. C12-02905 JSC

**STIPULATION AND ~~PROPOSED~~ ORDER
GRANTING PLAINTIFFS LEAVE TO
FILE SECOND AMENDED COMPLAINT**

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TO THE HONORABLE COURT:

WHEREAS, Defendants previously filed a Rule 12 motion to dismiss Plaintiffs' Complaint which was granted by the Court on October 26, 2012, with leave to amend;

WHEREAS, Plaintiffs have timely filed a First Amended Complaint;

WHEREAS, Defendants contend that the First Amended Complaint is still deficient because it includes claims that are barred as a matter of law, including state law claims (negligence) on behalf of the minor Plaintiffs that are barred by California Government Code §§ 945.4 and 950.2, as well as non-viable 42 U.S.C. § 1983 federal claims for alleged excessive force under the 5th and 14th Amendment in the Second Cause of Action, by the minor Plaintiffs on behalf of the Decedent as his successor in interest;

WHEREAS, Defense counsel contacted Plaintiffs' counsel in a good faith attempt to meet and confer on the deficient claims. Plaintiffs' counsel has agreed to strike the negligence state law claim (paragraphs 26 through 30) in its entirety, as well as the claims for excessive force in violation of the 5th and 14th Amendment under (42 U.S.C. § 1983), specifically as stated in paragraph 17 of Plaintiffs' First Amended Complaint;

WHEREAS, the parties have agreed in the interest of judicial economy to stipulate to grant leave to the Plaintiffs to file a Second Amended Complaint without the deficient claims, in lieu of Defendants having to file another Rule 12 motion to dismiss that claim;

NOW THEREFORE the parties hereby agree and stipulate to allow Plaintiffs to file a Second Amended Complaint without the state law negligence claim and without the claims for excessive force in violation of the 5th and 14th Amendment under (42 U.S.C. § 1983), as currently plead in Plaintiffs' First Amended Complaint (paragraphs 17, 26 through 30).

SO STIPULATED.

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McNAMARA, NEY, BEATTY, SLATTERY, BORGES & AMBACHER LLP
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1211 NEWELL AVENUE, WALNUT CREEK, CA 94596
TELEPHONE: (925) 939-5330

1 Dated: December 6, 2012

LAW OFFICES OF EDI M. O. FAAL

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3 By: /s/ Renee L. Campbell
4 Renée L. Campbell
Attorney for Plaintiffs

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6 Dated: December 6, 2012

MC NAMARA, NEY, BEATTY, SLATTERY, BORGES
& AMABACHER LLP

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10 By: /s/ James V. Fitzgerald, III
11 James V. Fitzgerald, III, Esq.
12 Petra Bruggisser, Esq.
13 Attorney for Defendants
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[PROPOSED] ORDER

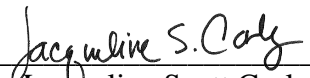
PURSUANT TO THE PARTIES' STIPULATION, IT IS HEREBY ORDERED THAT:

The Plaintiffs are granted leave to file a Second Amended Complaint. The Second Amended Complaint shall not contain any state law negligence claim and shall not contain any claims for excessive force in violation of the 5th and 14th Amendment under 42 U.S.C. § 1983 by the minor Plaintiffs on behalf of the decedent as his successor in interest.

IT IS SO ORDERED.

Dated: December 7, 2012

By: _____


Hon. Jacqueline Scott Corley
Magistrate Judge of the District Court